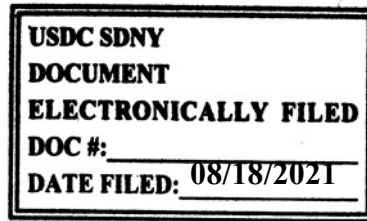




ATLANTA CINCINNATI COLUMBUS NEW YORK
CHICAGO CLEVELAND DAYTON WASHINGTON, D.C.



August 12, 2021

VIA ECF

Hon. Katharine H. Parker
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

APPLICATION GRANTED

Hon. Katharine H. Parker, U.S.M.J.

08/18/2021

Re: *Spectrum Dynamics Medical Limited v. General Electric Company, et al.*,
Case No.: 18-cv-11386 (VSB)

Dear Judge Parker:

We write on behalf of Defendants General Electric Company, et al. (“Defendants”) pursuant to Your Honor’s Individual Rule of Practice III(d), and the parties’ Stipulated Confidentiality and Protective Order (the “Protective Order”) (Dkt. 156) to request leave to file under seal Defendants’ Letter Motion Challenging Plaintiff’s Claw-Back (the “Motion”) and exhibits thereto.

The presumption of public access to judicial documents can be overcome if countervailing factors warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc’ns Inc.*, 435 U.S. 589, 598 (1978). Sealing of records may be justified to preserve “higher values,” including the need to protect an entity from competitive injury. *Lugosch*, 435 F.3d at 124; *see also Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 U.S. Dist. LEXIS 49029, at *10-11 (S.D.N.Y. Apr. 12) (risk of “competitive injury is sufficiently serious to warrant protection” of proprietary business information). Consistent with this, courts routinely permit sealing and redaction of competitively sensitive proprietary business information or information subject to a claim of privilege. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 614 (S.D.N.Y. 1998); *see also Nixon*, 435 U.S. at 598 (recognizing need to seal information that might “harm a litigant’s competitive standing”).

Here, the Motion and its exhibits discuss and reflect information that Plaintiff has designated Highly Confidential under the Protective Order and which is subject to Plaintiff’s ongoing assertion of the attorney client privilege.

Defendants respectfully request that the Court permit filing of the Motion and Exhibits thereto under seal.

Marla.Butler@ThompsonHine.com Fax: 404.541.2905 Phone: 404.407.3680

THOMPSON HINE LLP
ATTORNEYS AT LAW

Two Alliance Center
3560 Lenox Road, Suite 1600
Atlanta, Georgia 30326-4266

www.ThompsonHine.com
Phone: 404.541.2900
Fax: 404.541.2905



Page 2

Very truly yours,

/s/ Marla R. Butler

THOMPSON HINE LLP

Marla R. Butler

Carl Wesolowski (*pro hac vice*)

Lauren Hogan (*pro hac vice*)

Two Alliance Center

3560 Lenox Road NE, Suite 1600

Atlanta, Georgia 30326

Tel.: (404) 541-2900

Fax: (404) 541-2905

Marla.Butler@ThompsonHine.com

Carl.Wesolowski@ThompsonHine.com

Lauren.Hogan@ThompsonHine.com

Brian Lanciault

335 Madison Avenue, 12th Floor

New York, New York 10017

Tel.: (212) 344-5680

Fax: (212) 344-6101

Brian.Lanciault@ThompsonHine.com

Jesse Jenike-Godshalk (*pro hac vice*)

312 Walnut Street, Suite 2000

Cincinnati, Ohio 45202

Tel.: (513) 352-6700

Fax: (513) 241-4771

Jesse.Godshalk@ThompsonHine.com

Jeffrey Metzcar

Discovery Place

10050 Innovation Drive

Miamisburg, Ohio 45342

Tel. (937) 443-6841

Fax (937) 430-3781

Jeff.Metzcar@thompsonhine.com

Attorneys for Defendants

General Electric Company, GE Healthcare,

Inc., GE Medical Systems Israel Ltd., Jean-

Paul Bouhnik, Sergio Steinfeld,

Arie Escho, and Nathan Hermony and for Non-

Party Yaron Hefetz

cc: All Counsel of Record via ECF